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OFFICE OF PETITIONS

In re Application of :
Richard L. Simmons et al. :
Application No. 09/927,663 :
Filed: August 10, 2001 :
Attorney Docket No. :
56964US002

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 2003, to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

As to item (1), No reply to the Office action mailed October 7, 2002 has been submitted. The instant application cannot be revived until a proper reply to the Office action is submitted. The response required for a grantable petition to revive in this case must be either an Amendment, a Request for Reconsideration, or a Continuing Application. See MPEP section 711.03(c).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
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Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
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for Patent Examination Policy

Attachment: Copy of Office action mailed October 7, 2002